

Serial No.: 09/576,094  
Attorney Docket No. 2C03.1-191  
CIBA Docket No.: SU/V-31536A/C1

### **REMARKS**

By the present Response and Amendment, Claims 1, 21, 22, and 33 are amended and Claim 11 has been cancelled. Claims 1, 6-10, and 21-40 are now pending. No new matter is introduced.

Claims 11 and 22 are objected to because of informalities. Claim 11 has been cancelled, and Claim 22 has been amended, and thus the objections are believed to be addressed by the present amendments to the claims.

Claims 1, 6-11 and 21-40 are rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Applicant has amended independent Claims 1, 21, and 33 to clarify that a concavely curved outer portion extends from the intermediate beam. Independent Claims 21 and 33 have been further amended to define a first attachment point at the juncture of the intermediate beam and the outer portion. Support for these amendments can be found in Figure 2 and on page 14, lines 4-9. No new matter is introduced, and accordingly, Applicant submits the rejection has been addressed and requests the Examiner to withdraw this rejection.

Claim 21 has been amended to recite two haptics, and accordingly, Applicant submits the rejection has been addressed and requests the Examiner to withdraw this rejection.

Claims 1, 8-11 and 21-40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,828,558 to Kelman in view of U.S. Patent No. 5,135,540 to Schepel et al. Applicant respectfully traverses this rejection.

The Examiner has pointed to no disclosure in these two patents or in any of the other art of record that would suggest making the combinations relied on by the Examiner in rejecting the claims. Indeed, because Kelman and Schepel et al. disclose haptic geometrics that are quite distinct from one another, one skilled in the art would not be

Serial No.: 09/576,094  
Attorney Docket No. 2C03.1-191  
CIBA Docket No.: SU/V-31536A/C1

motivated to alter either in the manner proposed. It appears that the only motivation for the combinations comes from the applicant's own disclosure, which of course amounts to improper hindsight reconstruction of the claimed invention.

Moreover, neither Kelman nor Schepel et al., alone or in combination, disclose, teach or suggest a first attachment point at the junction of the intermediate beam and the outer portion, and a second attachment point at a distal end of the outer portion, as recited in independent Claims 21 and 33. Independent Claim 1 recites two haptics providing a four-point attachment, which is not disclosed, taught, or suggested by Kelman or Schepel et al., alone or in combination. Accordingly, Applicant submits that independent Claims 1, 21, and 33 are patentably distinguishable from Kelman in view of Schepel et al. and thus are in condition for allowance.


Because dependent Claims 6-10, 22-32, and 34-40 incorporate the limitations of their corresponding independent Claim, these dependent claims are allowable for at least the reasons set forth above for the corresponding independent claim. Thus, as Claims 1, 22, and 33 are allowable, Claims 6-10, 22-32, and 34-40 are also allowable.

Serial No.: 09/576,094  
Attorney Docket No. 2C03.1-191  
CIBA Docket No.: SU/V-31536A/C1

### CONCLUSION

In view of the amendments submitted herein and the above comments, it is believed that all grounds of rejection are overcome and that the application has now been placed in full condition for allowance. Accordingly, Applicant earnestly solicits early and favorable action. Should there be any further questions or reservations, the Examiner is urged to telephone Applicant's undersigned attorney at (770) 984-2300.

Respectfully submitted,

  
\_\_\_\_\_  
Bradley K. Groff  
Reg. No. 39,695

GARDNER GROFF, P.C.  
100 Parkwood Point  
2018 Powers Ferry Road  
Suite 800  
Atlanta, Georgia 30339  
Tel: 770/984-2300  
Fax: 770/984-0098

W:\Users\BKG\My Documents\2005\CIBA\2003.1-191 Positive Power Anterior Chamber Occluder Implant (NonPrep) 2004.pat (Response & Amendment to 06.15.04 OA).app